Commentary

Strengthening Labor Rights in the Inter-American Human Rights System

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Introduction

In numerous cases, the Inter-American Court of Human Rights (IACtHR) has addressed issues relating to human rights at work. These involve, among others, forced labor, slavery, and workers’ freedom of association. In this regard, the Court has shown considerable openness toward relevant international instruments and jurisprudence, notably from the International Labour Organization (ILO). In the 2017 case, Lagos del Campo v Peru, the Court developed
its labor-related case law further in several respects. First, the Court clarified labor-related aspects of freedom of thought and expression as well as freedom of association as protected by the American Convention of Human Rights (ACHR). Second, the Court recognized for the first time that the ACHR embodies a “right to employment stability” (derecho a la estabilidad laboral) that protects workers against unfair dismissal. Third, the Court did not derive this right from any of the ACHR’s provisions on civil and political rights. Rather, the Court relied on an innovative reading of Article 26 on the “progressive development” of economic, social, and cultural rights which was interpreted, also for the first time, to substantively protect specific rights. This also opens up possibilities for bringing cases on other workers’ rights matters that had, so far, not been considered to be within the Court’s jurisdiction.

Facts and Outcome

Mr Lagos del Campo was chair of the election committee relating to a workers’ representation body (comunidad industrial) of the Peruvian company Ceper-Pirelli. In this position, he observed in April 1989 undue interference by the employer in the internal elections relating to the comunidad industrial and reported these irregularities to the relevant authorities. Subsequently, he gave an interview to the newspaper La Razón in which he decried this interference. In response, the employer claimed that the statements made in the course of the interview involved a breach of employment contract obligations and dismissed Lagos del Campo. In March 1991, a labor court ruled in first instance that the dismissal was unlawful. Upon appeal by the employer, the appellate court reversed the judgment in August 1991, deeming the dismissal lawful. Lagos del Campo’s subsequent steps to have the decision by the appellate court overturned by superior judicial instances at the domestic level were unsuccessful. In August 1998, he then submitted a petition to the Inter-American Commission of Human Rights, which was declared admissible—after a substantial delay—in November 2010. The case eventually reached the IACtHR in November 2015. In its verdict, the Court found Peru to have violated Lagos del Campo’s right to employment stability, freedom of thought and expression, and freedom of association as

6 IACtHR, Lagos del Campo vs. Perú, Excepciones Preliminares, Fondo, Reparaciones y Costas, 31 August 2017, Serie C, No. 340. Note that all direct quotes from the decisión are unofficial translations.
7 Ibid., paras. 2, 48–55, 59, 60–70.